8385708/2024/TW-LTR-I-SOW01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT – LTR - Alluri Sitharamaraju District - Revision Petition filed under the provisions of A.P.S.A.L.T.R., 1959 by Sri Komaram Veerabaidora, & Turram Venkannadora, S/o. Chinnapudora, Devaram Village, Devipatnam (M), Alluri Sitharamaraju District against the orders of the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.96 of 2005, dt.31.10.2013 in respect of scheduled land in Sy.No.113 to an extent of Acs.8.00 cts of Devaram (V), Devipatnam (M), Alluri Sitharamaraju District - Partially allowed - Orders - Issued.

TRIBAL WELFARE (LTR.I) DEPARTMENT

G.O.MS.No.81

Dated:05.01.2024
Read the following:

1. Revision Petition filed by Sri Komaram Veerabbaidora and Turram Venkannadora, S/o. Chinnapudora, R/o. Devaram Village of Devipatnam Mandal, Alluri Sitharamaraju District erstwhile East Godavari District, dated: 13.12.2013.
2. From the Project officer, ITDA, Rampachodavaram, CMA.No.96/2008, dated: 07.11.2014.

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ORDER:

In the reference 1st read above, Sri Komaram Veerabbaidora and Turram Venkannadora, S/o. Chinnapudora, R/o. Devaram Village of Devipatnam Mandal, Alluri Sitharamaraju District erstwhile East Godavari District against the orders of the Additional Agent to Government, erstwhile East Godavari District passed in CMA.No.96/2008, dated: 31.10.2013 in respect of scheduled land in Sy.No.113 admeasuring Ac.8.00 cts. of Devaram village of Devipatnam Mandal, presently in Alluri Sitharamaraju District, setting aside the orders of the Special Deputy Collector(TW), Rampachodavaram passed in LTRP No.30/1999, dated 16-11-2001 while directing the Mandal Revenue Officer, Devipatnam to put the scheduled land in the possession of the Petitioners.

2. Brief history of the subject case:

- This case was initiated on the petition filed by Sri Komaram Veerabbai, S/o.Chinapu Dora and Turram Venkanna Dora S/o. Chinnapu Dora before the lower court U/s 3(2) of A.P.S.A. Land Transfer Regulation 1/1959 as amended by APSALT Regulation 1/1970 against 1) Garapati Subramanyam 2) Garapathi Krishna and 3) Sagi Veera Venkata Seetaramraju the appellant in CMA No.96/2008 due to occupation of land measuring Acs.8.00 cts in Sy.No.113 of Devaram village of Devipatnam Mandal by the respondents who are non tribal without prior permission from the Agent to Government U/s 3(1) (2) of APSALT Regulation 1 of 1959 amended by Regulation 1 of 1970 is and void and requested for issue of orders for restoration of the petition scheduled land from the respondents.

(P.T.O)

- After due enquiry and following due procedure under regulation and rules, the Special Deputy Collector(TW), Rampachodavaram has passed orders in LTRP No.30/99, dt.16.11.2001 in favour of petitioners and the lower court directed the Mandal Revenue Officer, Devipatnam to evict the respondents or any other persons from the Petition Scheduled land and further directed to put the petition suit land in the possession of petitioners therein.

- Against the above orders, Sri Sagi Veera Venkata Seetharama Raju S/o. Venkatapathi Raju have filed an appeal before the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District. The Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District has observed that on perusal of copy of village settlement register of Devaram village, the land under appeal is classified as assed waste dry (A.W.D) and noted as Gayalu in remarks column, so it is evident that no patta was granted to any body and it belongs to Government.

- In this case appellants or respondents are not produced any documentary evidence to prove their right over the land.

- The tribal petitioners have not produced any valid record evidences before the appellate authority to prove that the land under appeal belongs to their ancestors, except Xerox copy of patta which was given by Badireddy Appanna who is the Joint and Managing proprietor of Dandangi Estate which is said to be given in the name of Komaram Chinnaludora and copies of Pattadar Pass Books which were issued by the Mandal Revenue Officer, Devipatnam on the basis of order in LTRP No.30/99, dated.16.11.2001 is under appeal on hand. On the other side the appellants are also not produced any recorded evidences how they got the land under reference even through the burden of proof always lies on the non tribal claimant.

- As seen from the un-visible Xerox copy of patta, the total extent of Geedikoyyachelaka is Acs.4.00 cts. Now the petitioner and respondents claim an extent of Acs.8.00 cts instead of Acs.4.00 cts. There is a discrepancy in total extent. Since either the appellant or respondents have not proved their right over the land, its shows that the lower court passed the orders without proper verification of the land records and recorded evidences.

- The Additional Agent to Government cum Project Officer, Rampachodavaram Alluri Sitharamaraju District dismissed the appeal vide order in CMA No.96/2008, dated.31.10.2013 and ordered to restore the petition suit land to Government by set-aside the orders of the lower court in LTRP No.30/1999, dated.16.11.2001.

3. Aggrieved by the above orders, Sri Komaram Veerabaidora & Turram Venkannadora S/o.Chinnappudora has filed Revision Petition dated: 21.12.2013 before the Government of Andhra Pradesh, against the orders of the Additional Agent to the Government cum Project Officer, ITDA, Rampachodavaram, Alluri Siitharamaraju District in CMA No. 96/2008, dated: 31.10.2013 in respect of land in Sy.No.113 admeasuring Ac.8.00 cts. of Devaram village of Devipatnam mandal, presently in Alluri Sitharamaraju District with a request to set aside orders of LTRP the and CMA and direct the respondents to drop all further proceedings against the petitioners in this

regard and to pass such other or further order as this Hon'ble Government may deem fit and proper in the circumstances of the case.

4. This Memorandum of Revision Petition is filed by Sri Komaram Veerabbaidora and Turram Venkannadora, S/o. Chinnapudora, R/o. Devaram Village of Devipatnam Mandal, Alluri Sitharamaraju District against the orders of the Additional Agent to Government, Alluri Sitharamaraju District passed in CMA.No.96/2008, dated: 31.10.2013 in respect of scheduled land in Sy.No.113 admeasuring Ac.8.00 cts. of Devaram village of Devipatnam Mandal, presently in Alluri Sitharamaraju District, setting aside the orders of the Special Deputy Collector (TW) Rampachodavaram passed in LTRP No. 30/1999, dated: 16-11-2001 while directing the Mandal Revenue Officer, Devipatnam to put the Scheduled land in the possession of the Petitioners.

(a) The matter came up for hearing finally before the Revision Authority on 28-10-2023. Counsel for the Revision Petitioner and the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District and Special Deputy Tahasildar (TW), ITDA, Rampachodavaram, Alluri Sitharamaraju District were present. The counsel for the Revision Petitioners submitted the Written Arguments. The Additional Agent to Government furnished para-wise remarks in the case. Heard both parties. After perusing the material papers available in the file the following order is made.

(b) The Petitioners stated in the Revision Petition that the land in question belonged to them, and they are paying land revenue and Ryotwari pass book issued in favour of them and an order was also passed by the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP No. 30/1999 in their favour and 4th respondent here in sold the property on 08-05-1970 to another non tribe in violation of LTR 1 of 70 and that the Appellate Authority failed to appreciate the tax receipt filed and that they have been in continuous possession and enjoyment of lands.

(c) During the enquiry before this authority, the 2nd Revision Petitioner namely Turram Venkannadora filed written arguments further stating that the 1st Petitioner is his paternal aunty's son who died on 10-07-2021 leaving him as a legal heir and also bequeathed the schedule property to him by executing a Will in his favor 12-06-2014, and that father of the 1st Revision Petitioner namely Shri Chinnappudora sold the land to a non tribal on 23.10.1917 which is void under the provisions of section 4(1) AP Agency Area Land Transfer Act 1917 and that subsequent transactions were also held on the said property on 08-05-1970 between the 4th respondent here in and other nontribal which is also illegal and that the land is locally known as Jeedikoyya chelaka and that they filed LTRP in 30/99 before the Special Deputy Collector (TW), Rampachodavararn who passed an order in their favour and accordingly the land was handed over to them and that pattadar pass book was also issued and finally requested to set aside the impugned order passed by the Additional Agent to Government in CMA No.96/08 on 31-10-2013.

(d) The Additional Agent to Government submitted parawise remarks on 07.11.2014 stating that the village settlement register of Devaram village shows that the schedule land is classified as Assessed Waste Dry (A.W.D.) and noted as Gayalu in the remarks column as such it is evident that no patta was granted to any person and that the land belongs to Government, and

that both the 4th respondent and Revision Petitioners here in failed to produce documentary evidence to prove their legal right over the schedule land and that the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District passed an order in favour of the Revision Petitioners on the basis of oral evidence and unvisible and un-signed Xerox copy of patta which was given by one Shri Badireddy Appanna in the name of Komaram Chinnaludora without citing the name of father of the pattadar in Fasali 1324. (i.e., in the year 1914).

(e) The Additional Agent to Government further contends that the copies of Pattadar Pass Books which were issued by the Mandal Revenue Officer, Devipatnam on the basis of the order passed in LTRP. No. 30/99, dated: 16.11.2001 and the Xerox copy of patta shows the total extent of land is Ac. 4.00 cents only not Ac. 8.00 cents as claimed by the Revision Petitioners and that the lower court passed the orders without proper verification of the land records and evidences as such said order was setaside and ordered to restore the land in question to Government for consequential assignment to the eligible tribals. The Additional Agent to Government further contends that the 4th respondent here in sold away the land in question to another non tribal Shri Garapati Subrahmanyam in the year 1970 in violation of Land Transfer Regulations as such he has also no right over the schedule lands in any case.

(f) The records show that the 4th respondent here in filed an appeal in CMA No. 96/2008 against the orders of Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP No. 33/99 but he has not contested the present Revision Petition filed by the Tribals. Hence it is decided to consider that he has no interest to pursue his claim over the schedule land in question.

(g) The background of cases and rival submissions give rise to the following point for consideration.Whether the impugned order passed by the Appellate Authority is valid and proper under the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70?

(h) The brief facts of the case are that both the Revision Petitioners filed a petition in LTRP No. 33/99 before the Special Deputy Collector (TW) /SDC(TW) U/s 3(2) of A.P. Scheduled Area Land Transfer Regulation 1/1959 as amended by AP Scheduled Area Land Transfer Regulation 1/1970 against non tribals 1) Garapati Subramanyam 2) Garapati Krishna and 3) Sagi Veera Venkata Seetaramaraju. After an enquiry the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District passed an order in favour of the Revision Petitioners herein evicting the nontribal respondents there in.

(i) One of the un successful respondents Shri Sagi Veera Venkata Seetaramaraju filed CMA No. 96/2008 before the Additional Agent to Government/Appellate Authority assailing the order of Special Deputy Collector(TW), Rampachodavaram, Alluri Sitharamaraju District passed in LTRP No. 33/99. The Appellate Authority dismissed the said appeal filed by the 4th respondent herein as well as disallowed the claim of the Revision Petitioners here in over the land in question and ordered the scheduled land to be restored to Government. The Present Revision Petition is filed by the Revision Petitioners

(STs) aggrieved by the said order passed by the Additional Agent to Government of the erstwhile East Godavari District.

(j) Admittedly the land in question situated in the Scheduled Area of present ASR District. Hence the provisions of Andhra Pradesh Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 and earlier AP Agency Area Land Transfer Act 1917, are applicable in respect of transfer of immovable property effected in the scheduled area between the parties.

(k) Clause (b) of Section 3(1) which was substituted by Regulation 1 of 1970 raised a presumption that the property situated in the Agency Tracts in possession of a nontribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. The transfer of lands situated in the scheduled area in favor of non tribals is prohibited under the Land Transfer Regulations 1 of 70.

(1) In the case of the claim of 4th respondent in the matter, as per the records available, a land transfer was effected between 4th respondent herein and another non-tribal Garapati Subrahmanyam on 08.05.1970. Hence the said transaction was held subsequent to commencement of AP Scheduled Area Land Transfer Regulations 1 of 70 i.e. 03-02-1970, which prohibits transfer of land even between non tribals in the scheduled area.

(l) A full bench of the Hon'ble High Court in its case Vemana Somalamma Vs Deputy Collector, Tribal Welfare, Rampachodavaram (1993(1) ALT 409) held that " the object of the Regulations seem to be that all immovable property in agency tract as far as possible must be restored to Government or Tribals, as it was held by them at one time."

(m) Hence the transaction held between 4th respondent and another nontribal is void in any case. Both the Revision Petitioners and Additional Agent to Government have not denied this fact and also legal dimension involved in the matter.

(0) Coming to the claim of the Revision Petitioners herein, they filed documents in support of their case are, a Xerox copy of Estate Patta called as Veesabadi Patta, given by the proprietor of Dandangi Zameen, in the name of Komaram Chinnaludora in the year 1914, ST caste certificate, two tax receipts 18-05-2017 for Sy.No. 113 for different Fasali issued by Village Revenue Officer(VRO) and a copy of pattadar pass book issued by Mandal Revenue Officer(MRO) Devipatnam, Alluri Sitharamaraju District endorsing the order passed in LTRP No. 30/99 thereon, and an unregistered Will dated: 12-06-2014 executed by Komaram Verabbaidora /1st Revision Petitioner in favor of the 2nd Revision Petitioner.

(p) As per the impugned order of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District the land in question was classified as Assessed Waste Dry and it belongs to Government as per the Settlement Register as such the Revision Petitioners have no legal right over the land and disagreed to appreciate the documents filed who is an appellate authority.

(q) However the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District admitted that a copy of the Patta was filed by the tribal petitioners which was granted by Badireddi Appanna, a Joint and Managing Partner of Dandangi Estate in the name of Komaram Chinnaludora in the year 1914, for Ac.4.00, but not for Ac. 8.00 as claimed by the Revision Petitioners here in.

(r) The copy of the patta produced by the tribal petitioners show that the tribals were in occupation of the land in question. But it is also a fact that the patta was granted only for Ac.4.00, not for Ac. 8.00 as claimed by the Revision Petitioners.

(s) As per the records a Will was executed by the 1st Revision Petitioner in favour of the 2nd Petitioner. The petitioners explained the claim on the schedule land by virtue of said Estate patta and also relationship among the Revision Petitioners. However the Will was executed for the total extent of land Ac. 8.00 citing the orders of Special Deputy Collector(TW), Rampachodavaram, Alluri Sitharamaraju District passed in LTRP No. 33/99.

(t) On perusal of the Estate patta produced by the Revision Petitioners, it clearly shows that it is only for Ac. 4.00 not for Ac.8.00 as contended by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District. Therefore the 1st Petitioner cannot transfer his legal right over the total extent of land Ac. 8.00 through a testamentary disposition to the 2nd Petitioner, more than the right he has under Patta.

(u) Therefore the 2nd Revision Petitioner herein is entitled to claim right over the land only for an extent of Ac. 4.00. The remaining extent of land of Ac.4.00 may be assigned to the eligible tribals as per the existing norms.

(v) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioner is partially allowed. Therefore the impugned order dated: 31.10.2013, passed by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA.No.96/2008, is hereby modified to the extent that the 2nd Revision Petitioner -ST is entitled to hold an extent of Ac. 4.00 only out of the total extent of schedule land Ac. 8.00 and it is further directed to assign the remaining extent of land Ac.4.00 to the eligible Scheduled Tribes. As a sequel interim orders if any passed in the matter shall stand vacated. Revision Petition is disposed of accordingly.

5. Government after careful examination of the Revision Petition and the circumstances stated supra and in exercise of the powers conferred under section 6 of the Andhra Pradesh Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70, the orders passed by the Additional Agent to the Government, Rampachdavaram, Alluri Sitharamaraju District in CMA No.96 of 2005, dt.31.10.2013 in respect of scheduled land in Sy.No.113 to an extent of Acs.8.00 cts of Devaram (V), Devipatnam(M), Alluri Sitharamaraju District is Partially allowed and Interim orders passed if any are hereby vacated in the matter.

6. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter and acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

7. This order shall be published in apegazette.cgg.gov.in

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
PRINCIPAL SECRETARY TO GOVERNMENT(TW)

To
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.
The Additional Agent to Govt. cum Project Officer,ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e)
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Devipatnam Mandal, Alluri Sitharamaraju District.
Sri Kola Satya Prasad, Advocate, Rampachodavaram,
Alluri Sitha Ramaraju District,PIN-533288.
Sri Komaram Veerabbai Dora, S/o. Chinnapudora, Devaram Village, Devipatnam Mandal, Alluri Sitha Ramaraju District.
Sri Turram Venkanna Dora, S/o. Chinnapudora,
Devaram Village, Devipatnam Mandal, Alluri Sitha Ramaraju District.
Sri Sagi Veera Venkata Seetharamaraju,, S/o. Venkatapathi Raju,
Devaram Village, Devipatnam Mandal, Alluri Sitha Ramaraju District.

Copy to:
The P.S. to Hon'ble Dy. Chief Minister (TW)
The P.S. to Secretary (TW).
The Commissioner of Printing, Stationery (for Publication in the AP Gazette),
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// FORWARDED :: BY ORDER //

SECTION OFFICER